CANADIAN RAILWAY OFFICE OF ARBITRATION
CASE NO. 2582
Heard in Montreal, Tuesday, 14 February 1995
concerning
Canadian Pacific Limited
and
Transportation Communications Union
DISPUTE:

The disqualification of Coquitlam CSC employees Irene Reading, Phyllis Young and Janet Miriam from the position of Payroll Operator Clerk at the Coquitlam Car Department.

JOINT STATEMENT OF ISSUE:

On November 9, 1993, bulletin 046-3 was posted seeking applicants for the new position of Payroll Operator Clerk. The bulletin stated that, amongst other prerequisite qualifications, a minimum of 60 w.p.m. in typing was required.

The position advertised in Bulletin 046-3 was awarded to an employee junior to grievors Reading, Young and Miriam.

The Union submitted a grievance in favour of grievors Reading, Young and Miriam stating they should have the opportunity to demonstrate their ability on the Payroll Operator Clerk position in accordance with article 24.1 of the collective agreement and further claimed for any loss of earnings.

The Company declined the grievance stating that the employees had failed to demonstrate they had the required ability or merit for the position.

FOR THE UNION: FOR THE COMPANY:
(SGD.) D. J. Kent(SGD.) C. Graham
for: Executive Vice-President - Rail for: Area Manager, Mechanical Operations

There appeared on behalf of the Company:
C. Graham – Labour Relations Officer, Montreal
D. Woodrow – Manager, Services & Procedures, Winnipeg CSC
And on behalf of the Union:
M. Prebinski– Director of Education, Ottawa
R. Pagé– Assistant Division Vice-Prsident, Montreal
P. Conlon – Assistant Division Vice-President, Toronto

AWARD OF THE ARBITRATOR

The material before the Arbitrator discloses that the Company requested grievors Reading, Young and Miriam to take a typing test, as qualifications for the position involved a minimum of sixty words per minute in typing. All three employees declined to take the test. In the circumstances the Arbitrator has substantial difficulty accepting the submission of the Union that the grievors were treated unfairly as compared with the incumbent in the position who became the successful applicant.

Article 24.1 of the collective agreement provides as follows:

24.2 Promotion shall be based on ability, merit and seniority; ability and merit being sufficient, seniority shall prevail. The officer of the Company in charge shall be the judge, subject to appeal, such appeal to be made in writing within fourteen calendar days of the appointment.

In light of the language of the foregoing provision as senior employees, the grievors can claim the position over the incumbent, if they can show that they have the requisite ability

and merit. The Arbitrator fails to see how they can do so, however, when they refused to take the typing test which would establish their threshold qualifications in that regard. While the incumbent was not required to take a typing test, it does not appear disputed that her previous employment in recent years involved considerably more keyboard work, and that her current typing skills were not in question. Had any of the grievors taken and successfully passed the typing test, the case would obviously fall to be decided on a substantially different footing, with the position might to be awarded on the basis of seniority. The grievors' actions, however, have precluded the possibility of such an outcome.

For the foregoing reasons the grievances must be dismissed.

17 February 1995 _____

MICHEL G. PICHER
ARBITRATOR